

(ii) Additional material.

(A) Wisconsin's Emergency NSR regulations. Effective date November 15, 1992.

(B) On December 12, 1994, Donald Theiler, Director, Bureau of Air Management, WDNR sent a letter to USEPA clarifying Wisconsin's interpretation of "any period of 5 consecutive years." Wisconsin interprets the term as referring to the five-year period including the calendar year in which the increase from the particular change will occur and the four immediately preceding years.

(76) On January 14, 1994, the State of Wisconsin submitted its rules for an Operating Permits program intended to satisfy federal requirements for issuing federally enforceable operating permits.

(i) Incorporation by reference.

(A) NR 407—Wisconsin Administrative Code, Operating Permits, Effective date January 1, 1994.

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40 CFR Part 52

[MN20-2-6751a; FRL-5135-7]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: In this action, the United States Environmental Protection Agency (USEPA) is granting direct final approval of proposed revisions to Minnesota State Implementation Plan (SIP) for sulfur dioxide (SO₂) for the St. Paul Park area of Air Quality Control Region 131. The revisions were contained in a formal submittal dated December 11, 1992, and a formal amendment submitted on September 30, 1994. USEPA's action is based upon a revision request which was submitted by the State to satisfy the requirements of the Clean Air Act.

DATES: This action will be effective March 20, 1995, unless notice is received by February 17, 1995, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: William L. MacDowell, Chief, Regulation Development Section, Air Enforcement Branch (AE-17J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the SIP revision request and USEPA's analysis are available for public inspection during normal business hours at the following addresses: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AE-17J), Chicago, Illinois 60604; and Office of Air and Radiation (OAR), Docket and Information Center (Air Docket 6102) room M1500, United States Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

Randy Robinson, Air Enforcement Branch, Regulation Development Section (AE-17J), United States Environmental Protection, Region 5, Chicago, Illinois 60604, (312) 353-6713.

SUPPLEMENTARY INFORMATION:

I. Summary of State Submittal

On December 11, 1992, the Minnesota Pollution Control Agency (MPCA) submitted proposed revisions to its SIP for SO₂ for the St. Paul Park area of Air Quality Control Region 131. The submittal also contained technical information to support demonstration and maintenance of the National Ambient Air Quality Standards (NAAQS) for SO₂. On September 2, 1994 (59 FR 45653) the USEPA proposed to disapprove the MPCA submittal based on several enforceability and attainment demonstration issues. However, that notice also stated that if the MPCA adequately addressed the concerns before the end of the 30-day comment period, and if no other substantive, adverse comments were received, USEPA would proceed with a direct final approval. On September 30, 1994, the MPCA submitted a revised proposed SIP, along with technical information, addressing the issues raised in the proposed disapproval. The notice of proposed rulemaking (59 FR 45653) contained a comprehensive discussion of the history of the submittal, the attainment demonstration, the requirements of section 172 of the CAA, 42 U.S.C. 7502, and the issues identified by USEPA concerning enforceability and attainment demonstration aspects of the submittal. This notice of direct final rulemaking will summarize the major items of the submittal as well as provide information as to how the September 30, 1994, MPCA submittal addressed the issues identified in the proposed rulemaking.

Background

The USEPA published the designation of AQCR 131 as a primary

nonattainment area for SO₂ on March 3, 1978 (43 FR 8692). The MPCA submitted a final SO₂ plan on August 4, 1980. The USEPA published its final rule approving and promulgating the Minnesota Part D SIP for SO₂ for AQCR 131 on April 8, 1981 (46 FR 20997). AQCR 131, however, has not been redesignated to attainment. The promulgation of the Stack Height Rule on July 8, 1985, required the MPCA to review existing emission limitations to determine if any sources were affected by the new Rule. The MPCA determined that Ashland Petroleum Company, located in the St. Paul Park area of AQCR 131, would require additional permit revisions due to modeled violations using the reduced creditable stack heights.

In response to the modeled violations, the MPCA submitted a proposed SIP revision for SO₂ for the St. Paul Park area on December 11, 1992. The submittal included an administrative order for the Ashland Petroleum Company-St. Paul Park Refinery, in addition to dispersion modeling and technical support intended to show that the limits are sufficient to attain and maintain the NAAQS for SO₂. A subsequent revision, containing an amended administrative order for Ashland Petroleum Company and additional technical support, was submitted on September 30, 1994.

II. Submittal Review Summary

This section will provide a summary of USEPA's review of the attainment demonstration and administrative order for Ashland Petroleum Company. A more detailed description is contained in the notice of proposed rulemaking (59 FR 45653) and in the technical support document associated with this action.

Modeling Methodology

Section 172(c)(6) of the Clean Air Act requires that plan revisions include enforceable emission limitations and other control measures, means or techniques, necessary to provide for attainment of the applicable NAAQS. The State submittal demonstrated attainment through the use of air dispersion modeling. The primary guidance for such demonstrations is the "Guideline on Air Quality Models (Revised)" (1986), Supplement A (1987), and Supplement B (1993), which specifies the criteria for selection of dispersion models and for estimation of emissions and other model inputs. In accordance with that guidance, the dispersion modeling conducted for the administrative order in the submittal was performed using the Industrial

Source Complex Short-term (ISCST) model (version 90346) for calculation of the 3-hour, 24-hour, and annual average concentrations. The model used the regulatory default option, urban mode 3 (McElroy-Pooler) dispersion coefficients, one year of on-site meteorological surface data with upper air data from St. Cloud, Minnesota, and receptors spaced at 100 meter intervals at areas of maximum predicted impact. The emissions used in the modeling were based on the maximum emissions allowed at each source. The modeled concentrations, plus monitored background concentrations, showed attainment with the 3-hour, 24-hour, and annual NAAQS.

Issue Resolution

As stated previously, several issues were identified in the original December 1992 submittal. The issues were detailed in the September 2, 1994, notice of proposed disapproval. The issues and how they were addressed in the amended submittal sent to USEPA on September 30, 1994, are discussed below.

(1) The definition of 24-hour average was incorrect. It has been revised to correctly define the 24-hour average as the quantity of pollutant emitted during any 24 consecutive hours divided by 24.

(2) There was a discrepancy between the modeling demonstration and the administrative order as to the number of allowable hours during which the Company is allowed to conduct decoking operations. The number of allowable decoking hours in the administrative order was changed to reflect what was used in the modeled attainment demonstration.

(3) The limit on hydrogen sulfide in the refinery gas of 162 parts per million, as written in the original administrative order, did not apply during periods of startup, shutdown, breakdown, maintenance and repair of the fuel gas amine system, SRU1, SRU2, the tailgas recovery unit (SCOT), the heavy distillate hydrotreater, and significant decreases in hydrogen production. An USEPA concern was that allowing these exemptions may jeopardize the SO₂ standards since these scenarios were not included in the attainment demonstration. The amended administrative order removes all of the exemptions except for regularly scheduled maintenance and repair of the tailgas recovery unit and the amine regenerating unit. Air dispersion modeling, following the modeling guidance, was conducted to demonstrate that the SO₂ NAAQS are not violated during these periods. This information was submitted with the

amended order that included revised emission limits and recordkeeping requirements which are effective during these scheduled maintenance and repair periods.

(4) A provision in the original administrative order stated that no facility be allowed to operate if it experienced an unreasonable breakdown frequency of control equipment. This provision was determined to be unenforceable and was removed.

(5) The original administrative order stated that to the extent that additional requirements were imposed upon the Company, the Company shall comply with the more stringent requirements. This presented an enforceability issue and the language was revised to read that the Company shall also comply with the additional requirements.

(6) An issue was raised regarding air quality impacts when the tailgas unit is bypassed. This issue was addressed through the dispersion modeling conducted for the scheduled maintenance scenarios discussed above. The modeling indicated that when the tailgas unit is being bypassed, the standards are not violated.

Recordkeeping requirements remain in effect during these bypass periods and emissions are monitored by continuous emission monitors.

(7) The amended administrative order revised a section title to apply to sources not subject to New Source Performance Standards. Additionally, the amended administrative order revised testing language to state that testing capacity may be specified by USEPA as well as by the MPCA.

Section 172 Requirements

Air Quality Control Region 131 is designated as a nonattainment area for the primary NAAQS for sulfur dioxide. Sulfur dioxide nonattainment areas must meet the requirements of Subpart I of Part D of Subchapter I of the Clean Air Act, particularly section 172(c). Guidance on the requirements of section 172 is given in the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990 at 57 FR 13498 (April 16, 1992). The USEPA has determined that the State submittal meets the applicable requirements of section 172. A detailed justification of this determination is provided in the September 2, 1994, notice of proposed rulemaking. 59 FR 45653.

Public Comments

A public comment period was associated with the notice of proposed

rulemaking. No comments were received.

III. Rulemaking Action

This action has evaluated the approvability of the Minnesota SO₂ SIP revision submittal for the St. Paul Park area of Air Quality Control Region 131. It has been determined that the submittal meets the applicable requirements of the Clean Air Act. Therefore, USEPA is granting direct final approval.

Because USEPA considers this action noncontroversial and routine, we are approving it through direct final rulemaking. The action will become effective on March 20, 1995, unless notice is received by February 17, 1995, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget exempted this regulatory action from Executive Order 12866 review.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

State Implementation Plan approvals under section 110 and subchapter I, Part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act,

preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids USEPA to base its actions concerning SIPS on such grounds. *Union Electric Co. v. USEPA*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 20, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Reporting and recordkeeping requirements, Sulfur oxides.

Note.—Incorporation by reference of the State Implementation Plan for the State of Minnesota was approved by the Director of the Federal Register on July 1, 1982.

Dated: December 16, 1994.

Valdas V. Adamkus,
Regional Administrator.

Title 40 of the Code of Federal Regulations, chapter I, part 52, is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Section 52.1220 is amended by adding paragraph (c)(38) to read as follows:

§ 52.1220 Identification of plan.

* * * * *

(c) * * *

(38) On December 22, 1992 and September 30, 1994, the State of Minnesota submitted revisions to its State Implementation Plans (SIPs) for sulfur dioxide for the St. Paul Park area of Air Quality Control Region (AQCR) 131.

(i) Incorporation by reference.

(A) For Ashland Petroleum Company, located in St. Paul Park, Minnesota:

(1) An administrative order, dated and effective December 15, 1992, submitted December 22, 1992.

(2) Amendment One to the administrative order, dated and effective September 30, 1994, submitted September 30, 1994.

(ii) Additional material.

(A) A letter from Charles Williams to Valdas Adamkus dated December 22, 1992, with enclosures providing technical support (e.g., computer modeling) for the revision to the administrative order for Ashland Petroleum Company.

(B) A letter from Charles Williams to Valdas Adamkus dated September 30, 1994, with enclosures, submitting Amendment One to the administrative order for Ashland Petroleum Company.

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40 CFR Part 180

[PP 2E4057/R2099; FRL–4929–9]

RIN 2070–AB78

Pesticide Tolerance for Glufosinate Ammonium

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes a time-limited tolerance for combined residues of the herbicide glufosinate ammonium, monoammonium 2-amino-4-(hydroxymethylphosphinyl)butanoate, and its metabolite, 3-methylphosphinicopropionic acid expressed as 2-amino-4-(hydroxymethylphosphinyl)butanoic acid equivalents, in or on the imported raw agricultural commodity bananas at 0.3 part per million. (Not more than 0.2 ppm shall be present in the pulp after the peel is removed.) Hoechst Celanese Corp. (now AgrEVO Corp.) petitioned for this regulation to establish a maximum permissible level for combined residues of the herbicide.

EFFECTIVE DATE: This regulation becomes effective January 18, 1995.

ADDRESSES: Written objections, identified by the document control number, [PP 2E4057/R2099], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental

Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled “Tolerance Petition Fees” and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Product Manager (PM) 23, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703) 305–7830.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 14, 1994 (59 FR 56452), EPA issued a proposed rule that gave notice that the AgrEVO Corp., Little Falls Center One, 2711 Centerville Rd., Wilmington, DE 19808, had submitted pesticide petition (PP) 2E4057 to EPA. The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), establish a tolerance for combined residues of the herbicide glufosinate ammonium (monoammonium 2-amino-4-(hydroxymethylphosphinyl) butanoate) and its metabolite, 3-methylphosphinicopropionic acid, in or on the imported raw agricultural commodity bananas at 0.2 ppm. The petition was subsequently amended to raise the tolerance level to 0.3 ppm.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted on the proposal and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the time-limited tolerance will protect the public health. Therefore, the time-limited tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the